



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TJR
Docket No: 1156-00
26 May 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 16 May 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Navy on 2 September 1955 at the age of 18. Your record reflects that you served for nearly a year without incident but on 10 September 1956 you were convicted by special court-martial (SPCM) of an 11 day period of unauthorized absence (UA) and failure to obey a lawful order. You were sentenced to confinement at hard labor for a month and forfeitures totalling \$60.

Your record further reflects that on 27 February 1957 you were convicted by civil authorities of a violation of the Dyer Act and sentenced to probation for five years and a \$300 fine. On 22 May 1957 you were convicted by SPCM of three periods of UA totalling 39 days, absence from his appointed place of duty, and three incidents of breaking restriction. You were sentenced to confinement at hard labor for a month, reduction to paygrade E-1, and forfeitures totalling \$25.

Subsequently, you were processed for an administrative separation by reason of misconduct due to civil conviction. Your commanding officer was directed to issue you an other than honorable discharge by reason of misconduct due to civil conviction. On 17

September 1957, while awaiting separation, you received nonjudicial punishment (NJP) for a two day period of UA and were awarded a reduction to paygrade E-1. On 30 October 1957 you received an other than honorable discharge.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity, good post service conduct, and your contention that you would like your discharge upgraded. The Board also considered your contention that you were improperly represented by legal counsel. However, the Board concluded these factors were not sufficient to warrant a change in your discharge given your serious misconduct in both the military and civilian communities. Given all the circumstances of your case, the Board concluded your discharge was proper and no change is warranted. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director